

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ROBERT BEARD,	)	CASE NO. ED CV 10-00352 GW (RZ)
	)	
Petitioner,	)	
	)	ORDER SUMMARILY DISMISSING
vs.	)	PETITION WITHOUT PREJUDICE
	)	
KAYE HARRINGTON,	)	
	)	
Respondent.	)	

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The petitioner in this habeas corpus action pursuant to 28 U.S.C. § 2254, Robert Beard, is a state inmate serving a lengthy sentence under California's "Three Strikes" laws. Instead of challenging his 2006 "third strike" conviction, he seeks to challenge one of his prior "strikes," which occurred in 2002. The Court will dismiss the action summarily because Petitioner points to no *federal* law that the state courts misapplied in upholding his conviction or sentence.

The federal writ of habeas corpus offers redress "only on the ground that [the petitioner] is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Petitioners not only must limit their claims to those based on *federal* law but also must exhaust them first in state court, by identifying particular provisions of the Constitution or federal law which have been violated, and the facts which show such a violation. *Lyons v. Crawford*, 232 F.3d 666, 670 (9th Cir. 2000). Here,

1 Petitioner asserts two claims. Both are grounded entirely, or nearly entirely, on state law:  
2 (1) courts have discretion to “strike a strike” for sentencing purposes, and (2) his ultimate  
3 “third strike” sentence in 2006 operated as a breach of a plea bargain that led to an *earlier*  
4 strike. Even if he has exhausted those claims – and his petition leaves that matter in doubt  
5 – he still states no claim for which this Court may grant habeas relief.

6 Rule 4 of the Rules Governing Section 2254 Cases in the United States  
7 District Courts provides in part that “[i]f it plainly appears from the face of the petition and  
8 any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the  
9 judge shall make an order for its summary dismissal and cause the petitioner to be  
10 notified.” Petitioner states no federal claim in his petition, and thus this matter must be and  
11 hereby is DISMISSED, albeit without prejudice.

12 IT IS SO ORDERED.

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14 DATED: August 12, 2010

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18 GEORGE H. WU  
19 UNITED STATES DISTRICT JUDGE  
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